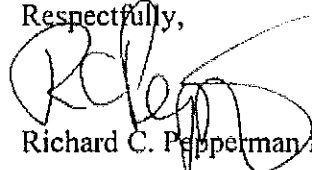


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Respectfully,


 Richard C. Pepperman II

cc: All Counsel of Record (via ECF)

Ordered

1. Motion to compel Evans's text messages ~~through~~ by way of motion directed at Goldman is denied. (ECF Nos. 991, 995)
2. First, there is no basis to suggest that Goldman has possession, custody or control over Evans's personal telephone and the record indicates that the Blackberry device over which it has control did not have IM capability enabled. (Representing someone at a deposition does not mean a firm obtains possession, custody and control of all documents and personal devices.)
3. Second, the motion is all events came for later. Goldman's document response (at Ex. A to defendant's opp. and Ex. E of plaintiffs) was served in March 2014 and clearly objects to a general collection of text messages (in the future, this should include not only cost/burden but also possession, custody & control). That some text messages were produced did not waive this objection as such production was done with an express statement of no waiver.
4. The Court reviewed the statements of Evans at his deposition and he said he texted only rarely for work and there is no indication any relevant texts exist. There is an insufficient need or basis to reopen document discovery.


 K.P. Jones
 WDJ

6/20/16